

**Notice of Allowability**

Application No.

09/744,373

Applicant(s)

KIMBERLY, ROBERT P.

Examiner

Art Unit

Sally A. Sakelarlis

1634

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5/27/2005.
2. ☒ The allowed claim(s) is/are 1,12,13,20,21 and 26-30.
3. ☒ The drawings filed on 1/23/2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 6/7/2005.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

JEFFREY FREDMAN  
PRIMARY EXAMINER

6/10/05

***Allowable Subject Matter***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/28/2005 has been entered.

2. In light of applicant's preliminary amendments(submitted 5/25/2005) to the claims in response to the interview held 5/24/2005 and in view of the below examiner's amendment, Claims 1, 12, 13, 20, 21, and 26-30 are now allowable.

**EXAMINER'S AMENDMENT**

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

A. Please cancel the presently withdrawn claims, 22-25 drawn to non-elected subject matter.

B. Amend Claim 1 as follows:

1. A method of correlating an Fc $\alpha$ RI induced function of intracellular calcium flux or interleukin-6 release or TNF $\alpha$  release of a cell in a host expressing Fc $\alpha$ RI with an Fc $\alpha$ RI amino acid sequence, said method comprising:

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identifying said Fc $\alpha$ RI genotype of said cell at nucleotide 844 corresponding to an amino acid sequence codon 248 [of said cell] as being [either] glycine [or serine];

quantifying said Fc $\alpha$ RI induced function by said cell expressing Fc $\alpha$ RI; and

comparing Fc $\alpha$ RI induced function by said cell and Fc $\alpha$ RI induced function by a second cell, said second cell expressing a second Fc $\alpha$ RI genotype at nucleotide 844 that corresponds [to an alternate] to serine at said amino acid sequence codon 248, wherein the Fc $\alpha$ RI induced function of intracellular calcium flux or interleukin-6 release or TNF $\alpha$  release of the cell in the host expressing Fc $\alpha$ RI correlates with the Fc $\alpha$ RI amino acid sequence codon 248.

**THE FOLLOWING IS AN EXAMINER'S STATEMENT OF REASONS FOR  
ALLOWANCE:**

4. The present invention is found to be allowable subject matter as its presentation of a method of correlating an Fc $\alpha$ RI induced function of intracellular calcium flux or interleukin-6 release or TNF $\alpha$  release of a cell in a host expressing the polymorphic variant including a glycine at the amino acid of position 248, represents a contribution of the prior art that teaches neither this polymorphic variant of Fc $\alpha$ RI or any polymorphic variant of Fc $\alpha$ RI that has an induced function of intracellular calcium flux or interleukin-6 release or TNF $\alpha$  release.

The closest prior art is represented in Morton et al. Immunogenetics (1996) 43: 246-247 that teaches alternatively spliced forms of the human myeloid Fc $\alpha$  receptor in neutrophils, but not the claimed polymorphic variant nor do they teach an induced function of intracellular calcium flux or interleukin-6 release or TNF $\alpha$  release.

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5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


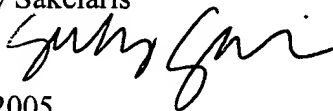
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sally A. Sakelaris whose telephone number is 571-272-0748. The examiner can normally be reached on M-Fri, 9-6:30 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones can be reached on 571-272-0745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sally Sakelaris

6/8/2005



JEFFREY FREDMAN  
PRIMARY EXAMINER  
6/10/05